# CERTIFICATE.

## SUPREME COURT OF THE UNITED STATES.

**OCTOBER TERM, 1906.**

## No. 155.

WILLIAM J. DOYLE AND JAMES G. DOAK, TRADING AS AS DOYLE & DOAK,

*vs.*

LONDON GUARANTEE AND ACCIDENT COMPANY, LIMITED.

ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT.

**FILED DECEMBER 4, 1905.**

**(20,002.)**

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JUNE 25, 1906.

1 In the United States Circuit Court of Appeals for the Third Circuit.

WILLIAM J. DOYLE and JAMES G. DOAK, Trading as Doyle & Doak, Citizens of Pennsylvania, Plaintiffs in Error,

*vs.*

LONDON GUARANTEE AND ACCIDENT COMPANY, LIMITED, a Corporation and Citizen of Great Britain, Defendant in Error.

Error to the Circuit Court of the United States for the Eastern District of Pennsylvania.

Mr. E. Clinton Rhoads, for Plaintiffs in Error.
Mr. Thomas Raeburn White, for Defendant in Error.

Before Acheson, Dallas and Gray, Circuit Judges.

*Sur Certified Question of Law.*

This cause has been brought to this Court by writ of error to the Circuit Court of the United States for the Eastern District of Pennsylvania to review a judgment against the defendants below in an action at law adjudging them guilty of contempt of Court and imposing upon them a fine enforceable by imprisonment.

The London Guarantee and Accident Company, Limited, a corporation and citizen of Great Britain, brought an action of assumpsit in the Court below against William J. Doyle and James G. Doak, citizens of Pennsylvania. In that action, in compliance with the petition of the plaintiff filed therein, the Court made the following order:

"And now, June 25th, 1904, the Court orders the defendants to produce, within twenty days, in the office of the Clerk of said Court, their pay-sheets, time books, cash books and all other books of original entry which contain information as to the amount
2 of compensation paid to employees of themselves or of their sub-contractors, or of any other persons contemplated in the contracts upon which suit is brought in this case, during the period of said contracts as set forth in the petition filed."

Thereafter the plaintiff presented to the Court a petition alleging disobedience by the defendants of the above order, and praying that an attachment issue against them for contempt of Court. Thereupon the Court granted a rule upon the defendants to show cause why an attachment should not issue against them for contempt of Court by reason of their violation and disobedience of said order. To this rule the defendants filed an answer under oath denying intentional non-compliance with said order and stating that they were not able to produce all the books and papers called for, because upon a thorough search the absent ones could not be found, and averring their belief that they were accidentally lost or by mistake were destroyed at a

time when alterations were made in their office and a removal of its contents to another place occurred. Subsequently, to-wit, on January 3rd, 1905, upon the hearing of the rule, the Court gave and entered judgment that the "defendants are guilty of contempt in disobeying the order referred to;" and further adjudging as follows:

"If the defendants produce in the office of the Clerk of the Circuit Court on or before January 15, 1905, the ledger of 1902-4, the pay-rolls or time-sheets, from March to May 28, 1903, and the cash-book from May 28 to December 1, 1902, or if they produce the cash-book alone, they are ordered to pay no more than the costs accruing upon this motion, including the stenographer's charges, on or before January 20, or in default of such payment, to suffer imprisonment
3 in the jail of this county for the period of sixty days. If the foregoing books and papers are not produced on or before January 15, the defendants are ordered to pay a fine of two hundred and fifty dollars, and also the cost accruing upon this motion, including the stenographer's charges, on or before January 20, or in default of such payment to suffer imprisonment in the jail of this county for the period of sixty days."

Thereupon the defendants applied to the Court below for the allowance of a writ of error for a review by this Circuit Court of Appeals of said judgment and the writ was allowed by the Circuit Court and has been sued out and the record filed in this Court.

Such being the material facts and this Court desiring the instruction of the Honorable the Supreme Court of the United States for the proper decision of the subjoined question of law thereon arising, it is now ordered that the following question (together with the foregoing statement of facts) be and the same is hereby certified to the Supreme Court.

Has the Circuit Court of Appeals jurisdiction upon the writ of error sued out by the defndants to review the above recited judgment of January 5th, 1905, adjudging that the defendants are guilty of contempt of Court in disobeying the above recited order of Court of June 25th, 1904, and imposing upon the defendants a fine of $250 on the specified condition and terms?

Witness our hands and seals this 18th day of September, 1905.

M. W. ACHESON, [SEAL.]
GEO. M. DALLAS, [SEAL.]
GEO. GRAY, [SEAL.]
*Circuit Judges.*

4 (Indorsed:) U. S. Circuit Court of Appeals, Third Circuit. William J. Doyle and James G. Doak, trading as Doyle & Doak, Citizens of Pennsylvania, Plaintiffs in Error, *vs.* London Guarantee and Accident Co. Limited, a corporation and citizen of Great Britain, Defendant in Error. Sur question of law certified to the Supreme Court. Filed September 18, 1905.

UNITED STATES OF AMERICA,
*Third Judicial Circuit, sct:*

I, William V. Williamson, Clerk of the United States Circuit Court of Appeals, for the Third Circuit, do hereby Certify the foregoing to be a true and faithful copy of the original Statement of facts and question of Law, filed September 18th A. D. 1905, in case of William J. Doyle and James G. Doak, trading as Doyle & Doak, citizens of Pennsylvania, Plaintiffs in Error, *vs.* London Guarantee and Accident Company, Limited, a corporation and citizen of Great Britain, Defendant in Error, for the instruction by the Honorable the Supreme Court of the United States for the proper decision thereon: on file, and now remaining among the records of the said Court, in my office.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of the said Court, at Philadelphia, this third day of November in the year of our Lord one thousand nine hundred and five and of the Independence of the United States the one hundred and thirtieth.

[Seal United States Circuit Court of Appeals, Third Circuit.]

WM. H. MERRICK,
*Clerk U. S. Circuit Court of Appeals, Third Circuit.*

[Endorsed:] No. 10. March Term, 1905. United States Circuit Court of Appeals, Third Circuit. William J. Doyle and James G. Doak, trading as Doyle & Doak, citizens of Penna. Plaintiffs in Error, *v.* London Guarantee and Accident Company, Limited, a corporation and citizen of Great Britain, Defendant in Error. Certified Copy. Sur question of Law certified to the Supreme Court.

Endorsed on cover: File No. 20,002. U. S. circuit court appeals, 3d circuit. Term No. 155. William J. Doyle and James G. Doak, trading as Doyle & Doak, *vs.* London Guarantee and Accident Company, Limited. Certificate. Filed December 4th, 1905. File No. 20,002.